

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION - DETROIT

In re:

ANDREW STEPHEN HULETT,
Debtor

Case No. 19-46577-mlo
Chapter 7
Hon. Maria L. Oxholm

v.

MANAGEDWAY COMPANY,
Plaintiff,

Adversary No. 19-04308-mlo

vs.

ANDREW STEPHEN HULETT,
Defendant.

ANSWER AND AFFIRMATIVE DEFENSES COMPLAINT TO DETERMINE NON-DISCHARGEABILITY OF DEBT PURSUANT TO 11 § U.S.C. 523

NOW COMES, Andrew Stephen Hulett (“Defendant”), by and through his attorneys, OSIPOV BIGELMAN, P.C., and responds as follows:

THE PARTIES

1. Admit.
2. Admit.
3. Admit.

VENUE AND JURISDICTION

4. Admit.
5. Admit.

GENERAL ALLEGATIONS

6. Neither admit nor deny, for lack of knowledge or information upon which to form a believe as to the truth of the matter.

7. Admit.

8. Denied, as untrue. The Document is unsigned by the Plaintiff.

9. Neither admit nor deny, for lack of knowledge or information upon which to form a believe as to the truth of the matter.

10. Neither admit nor deny, for lack of knowledge or information upon which to form a believe as to the truth of the matter.

11. Neither admit nor deny, for lack of knowledge or information upon which to form a believe as to the truth of the matter.

12. Neither admit nor deny, for lack of knowledge or information upon which to form a believe as to the truth of the matter.

13. Neither admit nor deny, for lack of knowledge or information upon which to form a believe as to the truth of the matter.

14. Neither admit nor deny, for lack of knowledge or information upon which to form a believe as to the truth of the matter.

15. Neither admit nor deny, for lack of knowledge or information upon which to form a believe as to the truth of the matter.

16. Neither admit nor deny, for lack of knowledge or information upon which to form a believe as to the truth of the matter.

17. Admit.

18. Admit.

19. Admit.

20. Neither admit nor deny, for lack of knowledge or information upon which to form a believe as to the truth of the matter.

21. Neither admit nor deny, for lack of knowledge or information upon which to form a believe as to the truth of the matter.

22. Neither admit nor deny, for lack of knowledge or information upon which to form a believe as to the truth of the matter.

23. Denied, as untrue.

24. Neither admit nor deny, for lack of knowledge or information upon which to form a believe as to the truth of the matter.

25. Neither admit nor deny, for lack of knowledge or information upon which to form a believe as to the truth of the matter.

26. Neither admit nor deny, for lack of knowledge or information upon which to form a believe as to the truth of the matter.

27. Neither admit nor deny, for lack of knowledge or information upon which to form a believe as to the truth of the matter.

28. Denied, as untrue.

29. Denied, as untrue.

30. Neither admit nor deny, for lack of knowledge or information upon which to form a believe as to the truth of the matter.

31. Neither admit nor deny, for lack of knowledge or information upon which to form a believe as to the truth of the matter.

32. Neither admit nor deny, for lack of knowledge or information upon which to form a believe as to the truth of the matter.

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44. Neither admit nor deny, for lack of knowledge or information upon which to form a believe as to the truth of the matter.

45. Neither admit nor deny, for lack of knowledge or information upon which to form a believe as to the truth of the matter.

46. Denied, as untrue.

47. Neither admit nor deny, for lack of knowledge or information upon which to form a believe as to the truth of the matter.

48. Neither admit nor deny, for lack of knowledge or information upon which to form a believe as to the truth of the matter.

49. Neither admit nor deny, for lack of knowledge or information upon which to form a believe as to the truth of the matter.

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56. Neither admit nor deny, for lack of knowledge or information upon which to form a belief as to the truth of the matter.

57. Neither admit nor deny, for lack of knowledge or information upon which to form a belief as to the truth of the matter.

58. Neither admit nor deny, for lack of knowledge or information upon which to form a belief as to the truth of the matter.

59. Neither admit nor deny, for lack of knowledge or information upon which to form a belief as to the truth of the matter.

60. Admit.

61. Admit.

62. Admit.

COUNT I: NON-DISCHARGEABILITY PURSUANT TO 11 U.S.C. § 523(a)(4)

63. No response required.

64. No response required

65. Denied, as untrue.

66. Denied, as untrue.

COUNT II: NON-DISCHARGEABILITY PURSUANT TO 11 U.S.C. § 523(a)(6)

67. No response required.

68. No response required.

69. No response required.

70. Denied, as untrue.

71. Denied, as untrue.

WHEREFORE, the Defendant requests that all relief requested be denied and that this Case be dismissed with prejudice.

AFFIRMATIVE DEFENSES TO COMPLAINT

1. Failure to State a Claim upon which relief can be granted
2. The alleged Employment Agreement was not signed by the Plaintiff (See Exhibit A of the Complaint)
3. Breach of Contract is not actionable under Section 523(a)(6) of the Bankruptcy Code
4. The Plaintiff's own expert, Bradford Southern, signed an Affidavit dated December 13, 2018, valuing the "Loss Profits Resulting from Unauthorized Use of IP to \$7,000.00". Accordingly, the maximum non-dischargeable amount in Count I is limited to \$7,000.00.
5. There exists no underlying tort to support a claim under Section 523(a)(6) of the Bankruptcy Code
6. The State Court did not make a finding that the Defendant breached the contract in a willful, deliberate or malicious manner.
7. The Plaintiff did not plead in state court that the contract was breached the contract in a willful, deliberate or malicious manner.
8. Collateral Estoppel
9. Issue/Claim Preclusion
10. The Defendant did not intend to cause injury to the Plaintiff.
11. The Defendant reserves his right to amend/supplement these affirmative defenses.

Respectfully submitted,

OSIPOV BIGELMAN, P.C.

Dated: August 16, 2019

/s/ Jeffrey H. Bigelman

JEFFREY H. BIGELMAN (P61755)
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MANAGEDWAY COMPANY,

Adversary No. 19-04308-mlo

Plaintiff,

vs.

ANDREW STEPHEN HULETT,

Defendant.

CERTIFICATE OF SERVICE

On August 16, 2019, I hereby certify that I served the following: (1) **Defendant's Answer and Affirmative Defenses to Complaint**, and (2) **Certificate of Service** of Defendant's Answer and Affirmative Defenses to Complaint in this action upon Plaintiff, c/o its counsel by using the Court's Electronic Filing System:

HOWARD & HOWARD ATTORNEYS PLLC
c/o Brandon J. Wilson, Esq.
450 West Fourth Street
Royal Oak, MI 48067

Dated: August 16, 2019

/s/ Monique Kallabat _____
MONIQUE KALLABAT
Legal Assistant
Osipov Bigelman, P.C.
20700 Civic Center Drive, Suite 420
Southfield, MI 48076
Tel: (248) 663-1800